

**Effective 5/4/2022**

**Part 7**  
**Indigent Aggravated Murder Defense Fund**

**Renumbered 7/1/2026**

**78B-22-701 Establishment of Indigent Aggravated Murder Defense Fund -- Use of fund -- Compensation for indigent legal defense from fund.**

- (1) As used in this part, "fund" means the Indigent Aggravated Murder Defense Fund.
- (2)
  - (a) There is established a custodial fund known as the "Indigent Aggravated Murder Defense Fund."
  - (b) The office shall disburse money from the fund at the direction of the commission and subject to this chapter.
- (3) The fund consists of:
  - (a) money received from participating counties as provided in Sections 78B-22-702 and 78B-22-703;
  - (b) appropriations made to the fund by the Legislature as provided in Section 78B-22-703; and
  - (c) interest and earnings from the investment of fund money.
- (4) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.
- (5) The fund shall be used to fulfill the constitutional and statutory mandates for the provision of constitutionally effective defense for indigent individuals prosecuted for the violation of state laws in cases involving aggravated murder.
- (6) Money allocated to or deposited into the fund is used only:
  - (a) to pay an indigent defense service provider appointed to represent an individual prosecuted for aggravated murder;
  - (b) for defense resources necessary to effectively represent the individual; and
  - (c) for costs associated with the management of the fund and defense service providers.

Renumbered and Amended by Chapter 291, 2026 General Session

Amended by Chapter 193, 2024 General Session

**Renumbered 7/1/2026**

**78B-22-701.5 Administration of Indigent Aggravated Murder Defense Fund.**

- (1) The commission shall establish rules and procedures for the application by a county for disbursements, and the screening and approval of the applications for the money from the fund.
- (2) The office shall:
  - (a) receive, screen, and approve, or disapprove the application of a county for disbursements from the fund;
  - (b) calculate the amount of the annual contribution to be made to the fund by each participating county;
  - (c) prescribe forms for the application for money from the fund;
  - (d) oversee and approve the disbursement of money from the fund as described in Section 78B-22-701; and
  - (e) negotiate, enter into, and administer contracts with legal counsel, qualified under and meeting the standards consistent with this chapter, to provide indigent defense services to an indigent individual prosecuted in a participating county for an offense involving aggravated murder.

Renumbered and Amended by Chapter 291, 2026 General Session  
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***Renumbered 7/1/2026***

**78B-22-702 County participation.**

- (1)
  - (a) A county may participate in the fund subject to the provisions of this chapter.
  - (b) A county that does not participate in the fund, or is not current in the county's assessments for the fund, is ineligible to receive money from the fund.
  - (c) The commission may revoke a county's participation in the fund if the county fails to pay the county's assessments when due.
- (2) To participate in the fund, the legislative body of a county shall:
  - (a) adopt a resolution approving participation in the fund and committing that county to fulfill the assessment requirements as set forth in Subsection (3) and Section 78B-22-703; and
  - (b) submit a certified copy of that resolution together with an application to the commission.
- (3) By January 15 of each year, a participating county shall contribute to the fund an amount computed in accordance with Section 78B-22-703.
- (4) A participating county may withdraw from participation in the fund upon:
  - (a) adoption by the county's legislative body of a resolution to withdraw; and
  - (b) notice to the commission by January 1 of the year before withdrawal.
- (5) A county withdrawing from participation in the fund, or whose participation in the fund has been revoked for failure to pay the county's assessments when due, shall forfeit the right to:
  - (a) any previously paid assessment;
  - (b) relief from the county's obligation to pay the county's assessment during the period of the county's participation in the fund; and
  - (c) any benefit from the fund, including reimbursement of costs that accrued after the last day of the period for which the county has paid the county's assessment.

Renumbered and Amended by Chapter 291, 2026 General Session  
Amended by Chapter 193, 2024 General Session

***Renumbered 7/1/2026***

**78B-22-703 County and state obligations.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a participating county shall pay into the fund annually an amount calculated by multiplying the average of the percent of the county's population to the total population of all participating counties and of the percent of the county's taxable value of the locally and centrally assessed property located within that county to the total taxable value of the locally and centrally assessed property to all participating counties by the total fund assessment for that year to be paid by all participating counties as is determined by the commission to be sufficient such that it is unlikely that a deficit will occur in the fund in any calendar year.
  - (b) The fund minimum is equal to or greater than 50 cents per person of all counties participating.
  - (c) The amount paid by a participating county under this Subsection (1) is the total county obligation for payment of costs in accordance with Section 78B-22-701.
- (2)

- (a) A county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, is required to make an equity payment in addition to the assessment required by Subsection (1).
- (b) The equity payment is determined by the commission and represent what the county's equity in the fund would be if the county had made assessments into the fund for each of the previous two years.
- (3) If the fund balance after contribution by the state and participating counties is insufficient to replenish the fund annually to at least \$250,000, the commission by a majority vote may terminate the fund.
- (4) If the fund is terminated, the remaining money shall continue to be administered and disbursed in accordance with the provision of this chapter until exhausted, at which time the fund shall cease to exist.
- (5)
  - (a) If the fund runs a deficit during any calendar year, the state is responsible for the deficit.
  - (b) In the calendar year following a deficit year, the commission shall increase the assessment required by Subsection (1) by an amount at least equal to the deficit of the previous year, which combined amount becomes the base assessment until another deficit year occurs.
- (6) In a calendar year in which the fund runs a deficit, or is projected to run a deficit, the commission shall request a supplemental appropriation to pay for the deficit from the Legislature in the following general session.
- (7) The state shall pay any or all of the reasonable and necessary money for the deficit into the fund.

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Amended by Chapter 193, 2024 General Session

***Renumbered 7/1/2026***

**78B-22-704 Application and qualification for fund money.**

- (1) A participating county may apply to the office for benefits from the fund if that county has incurred, or reasonably anticipates incurring, expenses for indigent defense services provided to an indigent individual for an offense involving aggravated murder.
- (2) An application may not be made nor benefits provided from the fund for a case filed before September 1, 1998.
- (3) If the application of a participating county is approved by the office, the office shall negotiate, enter into, and administer a contract for the cost of indigent defense services with an attorney or entity appointed to represent the indigent individual.
- (4) A nonparticipating county is responsible for paying for indigent defense services in the nonparticipating county and is not eligible for any legislative relief.

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Amended by Chapter 193, 2024 General Session